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ATTORNEYS FOR BASIN ELECTRIC
POWER COOPERATIVE

FILED
JUN 30 2010
Jim Ruby, Executive Secretary
Environmental Quality Council

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

In the Matter of:)
Basin Electric Power Cooperative) Docket No. 10-2802
Air Quality Permit No. MD-6047)
BART Permit: Laramie River Station)

Basin Electric's Motion for Summary Judgment

Basin Electric Power Cooperative (Basin Electric) respectfully moves for summary judgment on the Department of Environmental Quality's (DEQ) insertion of Condition No. 16 into the Best Available Retrofit Technology (BART) permit for the Laramie River Station. Condition No. 16 suffers from multiple legal flaws. A BART permit is an improper vehicle for adopting the Long-term Strategy limits imposed in Condition 16. DEQ violated its rules and exceeded its authority in imposing Long-term Strategy conditions in the Laramie River Station BART permit. DEQ further failed to comply with the procedural and substantive requirements for a Long-term Strategy when imposing Long-term Strategy conditions on Laramie River Station as a single source in a BART permit in isolation from other visibility-impairing sources. Condition 16 is also arbitrary and without basis in the law.

As additional grounds for this Motion, Basin Electric states as follows:

1. Basin Electric is entitled to judgment on the law on this claim, for the reasons set forth in the attached Memorandum brief and accompanying exhibits, incorporated into this Motion by reference.
2. There are no genuine issues of material fact related to this claim.
3. A statement of the undisputed facts is set forth in the attached Annex.

WHEREFORE, Basin Electric respectfully requests that the Council, pursuant to its authority in W.S. 35-11-112(c)(ii), grant this Motion for Summary Judgment and modify the Laramie River Station BART permit to remove Condition 16.

Dated June 30, 2010.



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CERTIFICATE OF SERVICE

I certify that on June 30, 2010, I served a copy of Basin Electric's Motion for Summary Judgment, Memorandum in Support of Motion for Summary Judgment, and Annex of Undisputed Facts to the following by U.S. Mail, postage prepaid, addressed as follows:

Nancy Vehr
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